

**REMARKS**

Claim 1 – 52 are currently pending in this application with claims 1, 3 – 9 and 12 – 49 being amended and claims 2, 10 and 11 being cancelled by this response. Claims 53 – 70 have been withdrawn as being drawn to a non-elected invention.

Claim 11 has been indicated as allowable if re-written in independent form including all intervening claims. Therefore, Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Claim 10 and 11 are cancelled by this response. Applicant respectfully submits that claim 1 is in allowable form.

Claim 2 has been amended to further define the present invention to include “means for retaining the shellfish product, wherein said means for retaining shellfish product includes at least one of a crate and a container, and wherein said means for automatically transporting product removes said retaining means therefrom upon said product being dumped from said retaining means into said conk tank.” Support for this amendment can be found throughout the present specification and drawing figures and specifically in originally filed claim 1.

Claims 3 – 9 and 12 – 49 have been formally amended for purposes of clarity to more clearly define and particularly point out the claimed invention. Applicant respectfully submits that support for these amendments are found in the originally filed claims and throughout the present specification and accompanying drawing figures. Applicant respectfully submits that no new matter has been added by these formal amendments.

**Objection of the Abstract**

The Abstract is objected to as being in improper form. The Abstract is amended in accordance with the Examiner's suggestions. Specifically, the phrase "and the like" in line 3 has been removed and the word "is" in line 6 has been replaced with the word "it".

Applicant respectfully submits that these amendments are formal in nature and add no new matter to the present application. Therefore, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Objection to the Drawings under 37 CFR 1.83(a)**

The drawings have been objected to for failing to show the "spiral platform with cylindrical chute" as claimed in claim 30. Applicant respectfully disagrees and respectfully submits that the above feature of claim 30 is shown in the drawings as filed. Specifically, the claimed feature is shown in Figure 6, reference numeral 98 and in Figure 8c, reference numerals 152 and 154. Furthermore, the corresponding description of these Figures contains support that sufficiently describes the drawings such as to show the feature claimed in claim 30 of the present invention. Figure 6 describes the dryer 30 and its related components including a "conveyor causing product 18 to be dumped from the upper level of the chute to the lower level" (see page 27, lines 10-12 of the specification). Figure 8 further defines the dryer 30 as "a spiral conveyor dryer" that utilizes the chute to transfer product to different portions of the dryer 30 (see pages 28 – 30 of the present specification). Applicant respectfully submits that in view of the description contained in the present specification in conjunction with the item 98 in Figure 6 and 152/154 in Figure 8c, that the feature claimed in claim 30 is disclosed in the Drawings. Therefore, Applicant respectfully submits that this objection has been satisfied and should be withdrawn.

**Objection to the Claims**

Claims 1, 3, 4, 8, 10, 12, 18, 24, 31, 34 and 52 were objected to because various limitations contained therein lacked antecedent basis and included other formalities which required correction. The objected to claims have been formally amended to provide antecedent basis for all terms and to correct the formalities identified by the Examiner in the objection. Applicant respectfully submits that, in view of the formal amendments to the claims, that the objections to claims 1, 3, 4, 8, 12, 18, 24, 31, 34 and 52 have been satisfied and should be withdrawn.

**Rejection of Claim 30, 35 and 48 under 35 U.S.C. 112, second paragraph**

Claim 30 is rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention because it is unclear how the spiral platform achieves orbital motion. Claim 30 is amended to remove any reference to "the orbital motion". Consequently, it is respectfully requested that this rejection be withdrawn.

Claims 35 and 48 are rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention. Claims 35 and 48 are amended to remove any uncertainty with respect to the claimed features. Specifically, the term "optional" is removed from claim 35 and the phrase "may include" is replaced with the phrase "comprises at least one of". Therefore, Applicant respectfully submits that the rejection of claims 35 and 48 has been satisfied and should be withdrawn.

**Rejection of Claims 1, 7-9 and 50-52 under 35 USC 102(b)**

Claims 1, 7 – 9 and 50 – 52 are rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 3,594,860 issued to Nelson et al.

The present claimed invention describes an apparatus for cooking, drying and peeling shellfish product. The apparatus includes a fluid filled conk tank for separating the shellfish product from packing ice, sea shells and other such large objects. A transport means automatically transports the product to the conk tank and dumps the shellfish product into the conk tank. A boiler system supplies heated brine and cooks the shellfish product therein. The boiler system includes a brine mixing tank including means for introducing water therein and means for introducing salt therein to create a brine solution of a predetermined concentration in which the shellfish product is to be cooked. A primary seafood boiler retains brine obtained from the brine mixing tank and maintaining the brine at a constant, predetermined temperature. A conduit extends between the brine mixing tank and the primary seafood boiler for selectively transporting brine to said primary mixing tank. At least one auxiliary boilers is positioned in line with the conduit for heating the brine to the desired temperature and storing the brine therein until called for to replenish used brine that has been removed from the primary seafood boiler. A transferring means automatically transfers the shellfish product from the conk tank to the boiler system.

Nelson discloses a system for mechanically shucking mollusks that includes an enclosed conveyor system whereby the mollusks are heated and the top of the shell is removed prior to eviscerating the mollusk. Applicant respectfully disagrees that Nelson anticipates the present claimed invention.

Claim 1 has been amended to include the features of claims 2, 10 and 11. Claim 11 is indicated as being allowable if re-written in independent form including the features of any intervening claims. Thus, Applicant respectfully submits that the present claimed invention is not anticipated by Nelson. Specifically, Applicant respectfully submits that Nelson et al. neither discloses nor suggests “a boiler system for supplying heated brine and cooking the shellfish product therein” as in the present claimed invention. Additionally, Nelson neither discloses nor suggests that the “boiler system” includes “a brine mixing tank including means for introducing water therein and means for introducing salt therein to create a brine solution of a predetermined concentration in which the shellfish product is to be cooked” as in the present claimed invention as amended. Furthermore, Nelson neither discloses nor suggests “a primary seafood boiler to retain brine obtained from said brine mixing tank and maintain said brine at a constant, predetermined temperature” as in the present claimed invention. Nelson also neither discloses nor suggests “a conduit communicating between said brine mixing tank and said primary seafood boiler for the selective transport of brine to primary mixing tank” as in the present claimed invention. Nelson also neither discloses nor suggests “at least one auxiliary boilers in line with said conduit for heating said brine to the desired temperature and storing it therein until called for to replenish used brine that has been removed from said primary seafood boiler” as in the present claimed invention. Consequently, it is respectfully requested that the rejection of claim 1 under 35 USC 102 (b) be withdrawn.

With respect to claim 50, the present claimed invention describes a product delivery apparatus for conveying crated seafood product to a conk tank including means for receiving said crated seafood product and means for elevating said crated seafood product to the upper rim of a conk tank. Applicant respectfully disagrees with the Examiners assertion that Nelson anticipates the present claimed invention. Specifically, Nelson neither discloses nor suggests each feature claimed in claim 50.

Nelson neither discloses nor suggests a “means for receiving said crated seafood product” as claimed claim 50 of the present invention. Additionally, Nelson neither discloses nor suggests a “means for elevating said crated seafood product to the upper rim of a conk tank” as claimed claim 50 of the present invention. The Examiner cites the “individual tray 24” and the transport system shown in Figure 1 identified by reference numerals 14 – 28 of Nelson as anticipating these features. Applicant respectfully disagrees. Rather, the “tray 24” of Nelson, by virtue of the description as an “individual tray” is not concerned with “receiving said crated seafood product” as in claim 50 of the present invention. Instead, as stated in column 2, lines 45 – 49 of Nelson, tray 24 receives “a whole live scallop”. This is NOT equivalent to “receiving said crated seafood product” as claimed claim 50 of the present invention. Additionally, the tray 24 of Nelson travels along a conveyor 16 and disposes of the individual scallop directly into a water bath 52 in a tank 50 (See Nelson, Fig. 1 and corresponding description). The insertion of an individual scallop in a water bath is wholly unlike and unrelated to “elevating said crated seafood product to the upper rim of a conk tank” as claimed claim 50 of the present invention. Therefore, Applicant respectfully submits that Nelson does not anticipate the “product delivery apparatus” of the present claimed invention. Consequently, Applicant respectfully requests the rejection of claim 50 under 35 USC 102(b) is satisfied and should be withdrawn.

Claim 51 describes a system for delivering raw crated seafood product and discharging the product into a conk tank. The system includes a product delivery apparatus and a dumping cage for discharging said crated seafood into a conk tank. Similarly as described above with respect to claim 50, Nelson neither discloses nor suggests the present claimed invention. Specifically, Nelson neither discloses nor suggests “a dumping cage for discharging said crated seafood into a conk tank” as claimed claim 51 of the present

invention. As discussed above Nelson is merely concerned with an **individual seafood product** and not “crated seafood product” as claimed claim 51 of the present invention. Additionally, there is no 35 USC 112 compliant enabling disclosure of “a dumping cage for discharging seafood into a conk tank” as claimed claim 51 of the present invention. Rather, Nelson uses a tray for moving an individual piece of seafood into a water bath. This is NOT equivalent to the system as claimed in claim 51 of the present invention. Consequently, Applicant respectfully requests that the rejection of claim 51 under 35 USC 102 (b) is satisfied and should be withdrawn.

Claim 52 describes a conk tank incorporating at least two of means for circulating water under pressure, means for testing the raw seafood product, means for agitating the contents of said tank, means to prevent passage of ice while transferring raw seafood product therefrom, a first sensor incorporated therein for detecting foreign substances and chemicals within said tank and a second sensor for measuring the salinity of the solution therein. Applicant respectfully submits that a “conk tank” with “at least two” of the claimed features is neither disclosed nor suggested by Nelson. Nelson merely utilizes a jet nozzle to eviscerate the scallop (see column 2, line 54 – 62). This is wholly unlike the present claimed invention and it is respectfully submitted that Nelson provides no 35 USC 112 compliant enabling disclosure of the present invention as claimed in claim 52. Consequently, Applicant respectfully requests that the rejection of claim 52 under 35 USC 102 (b) is satisfied and should be withdrawn.

In view of the above remarks and amendments to the claims, Applicant respectfully submits that there is no 35 USC 112 compliant enabling disclosure presented in Nelson that anticipates the present claimed invention as claimed in claims 1 and 50 - 52. As claims 7 – 9 are dependent on independent claim 1, applicant respectfully submits that claims 7 – 9 are

also not anticipated by Nelson. Therefore, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claims 2 and 12 under 35 USC 103(a)**

Claims 2 and 12 are rejected under 35 USC 103(a) as being anticipated by U.S. Patent No. 3,594,860 issued to Nelson et al. as applied to claim 1 and further in view of U.S. Patent No. 4,862,794 issued to Lapeyre et al.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claims 2 and 12 are dependent on allowable claim 1, Applicant respectfully submits that claims 2 and 12 are similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claims 3, 4 24 – 27, 31, 33, 34 and 46 – 48 under 35 USC 103(a)**

Claims 3, 4 24 – 27, 31, 33, 34 and 46 – 48 are rejected under 35 USC 103(a) as being anticipated by U.S. Patent No. 3,594,860 issued to Nelson et al. as applied to claim 1 and further in view of U.S. Patent No. 6,372,275 issued to Hulin.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claims 3, 4 24 – 27, 31, 33, 34 and 46 – 48 are



dependent on allowable claim 1, Applicant respectfully submits that claims 3, 4 24 – 27, 31, 33, 34 and 46 – 48 are similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claim 5 under 35 USC 103(a)**

Claim 5 is rejected under 35 USC 103(a) as being anticipated by U.S. Patent No. 3,594,860 issued to Nelson et al. as applied to claim1 and further in view of U.S. Patent No. 4,769,870 issued to Hansen et al.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claim 5 is dependent on allowable claim 1, Applicant respectfully submits that claim 5 is similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claim 6 under 35 USC 103(a)**

Claim 6 is rejected under 35 USC 103(a) as being anticipated by U.S. Patent No. 3,594,860 issued to Nelson et al. as applied to claim1 and further in view of U.S. Patent No. 5,246,118 issued to Mosher.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claim 6 is dependent on allowable claim 1, Applicant respectfully submits that claim 6 is similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claims 10 and 13 - 17 under 35 USC 103(a)**

Claims 10 and 13 - 17 are rejected under 35 USC 103(a) as being anticipated by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Lapeyre et al. as applied to claim 2 and further in view of U.S. Patent No. 4,916,775 issued to Gallant.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. Claim 10 has been cancelled and Applicant respectfully submits that the rejection of claim 10 is moot. As claims 13 - 17 are dependent on allowable claim 1, Applicant respectfully submits that claims 13 - 17 are similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claims 18 – 20 and 22 under 35 USC 103(a)**

Claims 18 – 20 and 22 are rejected under 35 USC 103(a) as being anticipated by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Hulin as applied to claim 3 and further in view of Lapeyre et al.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claims 18 – 20 and 22 are dependent on allowable claim 1, Applicant respectfully submits that claims 18 – 20 and 22 are similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claim 21 under 35 USC 103(a)**

Claim 21 is rejected under 35 USC 103(a) as being unpatentable by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Hulin and Lapeyre et al as applied to claim 18 and further in view of U.S. Patent No. 4,829,636 to Caroon.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claim 21 is dependent on allowable claim 1, Applicant respectfully submits that claim 21 is similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claim 23 under 35 USC 103(a)**

Claim 23 is rejected under 35 USC 103(a) as being unpatentable by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Hulin and Lapeyre et al as applied to claim 18 and further in view of Gallant.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claim 23 is dependent on allowable claim 1, Applicant respectfully submits that claim 23 is similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claims 28 and 29 under 35 USC 103(a)**

Claims 28 and 29 are rejected under 35 USC 103(a) as being unpatentable by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Hulin as applied to claim 27 and further in view of U.S. Patent No. 4,966,072 to Ellis-Brown.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claims 28 and 29 are dependent on allowable claim 1, Applicant respectfully submits that claims 28 and 29 are similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claim 32 under 35 USC 103(a)**

Claim 32 is rejected under 35 USC 103(a) as being unpatentable by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Hulin as applied to claim 3 and further in view of U.S. Patent No. 5,651,731 to Gorans et al.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claim 32 is dependent on allowable claim 1, Applicant respectfully submits that claim 32 is similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claim 35 under 35 USC 103(a)**

Claim 35 is rejected under 35 USC 103(a) as being unpatentable by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Hulin as applied to claim 4 and further in view of U.S. Patent No. 4,532,677 to Wenstrom et al.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully

submitted that claim 1 is now allowable. As claim 35 is dependent on allowable claim 1, Applicant respectfully submits that claim 35 is similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claims 36 - 38 under 35 USC 103(a)**

Claims 36 - 38 are rejected under 35 USC 103(a) as being unpatentable by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Lapeyre et al as applied to claim 2 and further in view of U.S. Patent No. 4,660,468 to Goldahn.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claims 36 - 38 are dependent on allowable claim 1, Applicant respectfully submits that claims 36 - 38 are similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claim 39 under 35 USC 103(a)**

Claim 39 is rejected under 35 USC 103(a) as being unpatentable by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Lapeyre et al as applied to claim 2 and further in view of U.S. Patent No. 3,665,555 to Willis.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claim 39 is dependent on allowable claim 1, Applicant respectfully submits that claim 39 is similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claim 40 under 35 USC 103(a)**

Claim 40 is rejected under 35 USC 103(a) as being unpatentable by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Hulin as applied to claim 3 and further in view of U.S. Patent No. 4,829,636 to Caroon.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claim 40 is dependent on allowable claim 1, Applicant respectfully submits that claim 40 is similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claims 41 - 43 under 35 USC 103(a)**

Claims 41 - 43 is rejected under 35 USC 103(a) as being unpatentable by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Hulin and Caroon as applied to claim 40 and further in view of U.S. Patent No. 5,651,731 to Gorans et al.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claims 41 – 43 are dependent on allowable claim 1, Applicant respectfully submits that claims 41- 43 are similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

**Rejection of Claims 44 - 45 under 35 USC 103(a)**

Claims 44 – 45 are rejected under 35 USC 103(a) as being unpatentable by U.S. Patent No. 3,594,860 issued to Nelson et al. as modified by Hulin as applied to claim 3 and further in view of U.S. Patent No. 6,117,003 to Brinson.

Claim 11 has been indicated as being allowable. Claim 1 has been amended to include the limitations of originally filed claims 2, 10 and 11. Therefore, it is respectfully submitted that claim 1 is now allowable. As claims 44 - 45 are dependent on allowable claim 1, Applicant respectfully submits that claims 44 – 45 are similarly allowable.

In view of the above remarks and amendments to claim 1, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

In light of all the above respectfully submitted remarks and amendments to the claims, the applicant accordingly requests that Examiner Parsley now reconsider the application and allow it, as amended, to pass to issue. If the Examiner feels that any additional changes would place this pending application in better condition for allowance



he is cordially invited to call the undersigned at his convenience. Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by Examiner's amendment, if the Examiner feels this would facilitate passage of the case to issuance.

No additional fee is believed due with this response. However, should an additional fee be due please charge the fee to Deposit Account No. 502828.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully Submitted,

Michael Hulin

By 

Jack I. Schwartz

Reg. No. 34,721

Jack Schwartz & Associates  
1350 Broadway, Suite 1510  
New York, New York 10018  
Tel. No. (212) 971-0416

Date: January 27, 2006



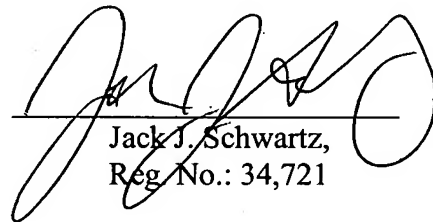
Serial No. 10/779,872

Atty Docket: 1104-2US

### CERTIFICATE OF MAILING

I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Mail Stop Amendment, Commissioners for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

January 27, 2006  
Date

  
\_\_\_\_\_  
Jack J. Schwartz,  
Reg. No.: 34,721